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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/263,005	03/05/1999	YOICHI YAMAGISHI	1232-4518	1295
27123	7590	02/07/2005	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			NGUYEN, HUY THANH	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/263,005

Applicant(s)

YAMAGISHI ET AL.

Examiner

HUY T NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-33 is/are pending in the application.
- 4a) Of the above claim(s) 25-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09 November 2004 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kerns et al (5,367,332).

Regarding claims 19-24, Kerns disclose a medium for storing a program for a control method for image processing (Fig. 1 and 2).

Applicants argue that claim 19 require the limitation of claim 13, claim 20 require the limitation of claim 14, claim 21 require the limitation of claim 15, claim 22

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require the limitation of claim 16, claim 23 require the limitation of claim 17 and claim 24 require the limitation of claim 18. In response, it is noted that claim 19 called for a medium for storing a program not for a control method but there is no positive steps of control method generated by the stored program recited in the body of claims 13 and 19 therefore the phrase "control method" of an image processing apparatus reciting in the preamble of claim 19 without setting forth in the body of claims is mere an intent use and is not weighted for patentability. Further it is noted that the recitation control method of an image processing of claims 19 is met with control method of an image processing apparatus that taught by Kerns reference because Kern teaches a stored program for implementing a control method for an image processing apparatus. Similarly, the responses to applicant argument of claims 20,21,22,23 and 24 can be seen in the response of claims 19.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-4 and 7-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stempeck (4,571,627) in view of Minoura et al (4,812,922) and Steven (6,111,609).

Regarding claims 1, 3,7,13, 14,15 and 16, Stempeck discloses an image processing apparatus (Fig. 1, column 2, lines 53 t column 3, lines 20)) for recording, and playing back and displaying a sensed still image and/or moving image on a recording medium , comprising: an image sensing device (16) , a memory device (26) , a control device (34) , an optical finder(38) , a display device having at least an electronic view finder function (20) and a review function (review mode) of playing back and displaying the sensed image immediately after an image sensing operation, an electronic view finder setting device adapted to turn on and off said electronic view finder function, and a review setting device adapted to turn on and off said review function, wherein said control device controls the display device to immediately displayed the sensed images in the case that said review function is turned on, (column 3, line 55 to column 4, line 5, column 5, lines 45-56, column 7, lines 20-60).

Stempeck further teaches recording images on a recording medium (column 5, lines 5-15)

Stempeck fails to teach a control means for setting a review function prior to sensing image . Minoura teaches a recording apparatus having means for setting a

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review function mode to review the image prior to recording the image in a memory and for reviewing the image after image has been stored in the memory (Fig. 1, column 6, lines 15-25).

It would have been obvious to one of ordinary skill in the art to modify Stempeck with Minoura by using a review setting means as taught by Minoura with the apparatus thereby enhancing the function of the apparatus of Stempeck to provide more convenience the user in selecting images for storing .

Stempeck as modified with Minoura fails to teach a display setting means for enabling the display device for displaying the image even if the display is turned off before . Steven teaches a camera having a control means (microprocessor) for enabling a display device (view finder) for displaying the sensed image or the stored image in the memory means even if the display device is turn off before (column 7, lines 15-40, column 7, line 64 to column 8, line 11). It would have been obvious to one of ordinary skill in the art to modify Stempeck as modified with Minoura by using the display device setting means as taught Stevens with the apparatus of Stempeck as modified with Minoura for setting the display device for enabling the display device to display the stored image in order to conserve the power of the apparatus .

Regarding claims Claim 2,4 and 8, Stempeck as modified with Steven further teaches that display means is a LCD and LCD having backlight and setting the backlight to be disable when the backlight is unnecessary in the operation of the apparatus (See Steven , column 7, lines 34-37).

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Further for claims 7,14,15 and 16, Stempeck as modified with Minoura further teaches display image for a predetermined time since Stempeck and Minoura teaches that the user can select the sensed image or stored image for displaying of the image for a predetermined time and a switch is turned on (See Stempeck, column 3, line 55 to column 4, line 12, Minoura , column 6, lines 15-20) .

Regarding claims 19-22, Stempeck as modified with Minoura and Stevens further teaches the use of a medium for storing a program to implement a control method as recited in claim 19 since Stempeck, Minoura and Stevens teach controllers control the operation of the apparatus based on instruction stored in the controllers.

Regarding claims 9,11,17 and 18, Stempeck discloses an image processing apparatus (Fig. 1, column 2, lines 53 to column 3, lines 20)) for recording and playing back and displaying a sensed still image and/or moving image on a recording medium , comprising: an image sensing device (16) , a control device (34) , an optical finder(38) , a display device having at least an electronic view finder function (20) and a review function (review mode) of playing back and displaying the sensed image immediately after an image sensing operation, an electronic view finder setting device adapted to turn on and off said electronic view finder function, and a review setting device adapted to turn on and off said review function, wherein said control device controls the display device to display immediately display the sensed in the case that said review function is turned on (column 3, line 55 to column 4, line 5, column 5, lines 45-56, column 7, lines 20-60).

Stempeck further teaches recording images on a recording medium (column 5, lines 5-15)

Stempeck fails to teach a control means for setting a review function prior to sensing image. Minoura teaches a recording apparatus having means for setting a review function recording mode prior to receiving image and to enable of recording the image in a memory and for reviewing the image after image has been stored in the memory (Fig. 1, column 6, lines 15-25).

It would have been obvious to one of ordinary skill in the art to modify Stempeck with Minoura by using a review setting means as taught by Minoura with the apparatus of Stempeck thereby enhancing the function of the apparatus of Stempeck to provide more convenience to the user in selecting image for storing.

Stempeck as modified with Minoura fails to teach a display setting means for enabling the display device for displaying the images even if the display is turned off before. Stevens teaches a camera having a control means for enabling a display device for displaying the play images, even if the display is turned off before, (column 7, lines 15-40, column 7, line 64 to column 8, line 11). It would have been obvious to one of ordinary skill in the art to modify Stempeck as modified with Minoura by using the display device setting means as taught Stevens with the apparatus of Stempeck as modified with Minoura for setting the display device for enabling the display device to display the images, even if the display device is turned off before, in order to conserve the power of the apparatus.

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Stempeck as modified with Minoura further teaches display image for a predetermined time since Stempeck and Minoura teaches that the user can select the sensed image or stored image for displaying of the image for a predetermined time and a switch is turned on (See Stempeck, column 3, line 55 to column 4, line 12, Minoura, column 6, lines 15-20)

Regarding claims 10 and 12, Stempeck as modified with Steven further teaches that display means is a LCD and LCD having backlight and setting the backlight to be disable when the backlight is unnecessary in the operation of the apparatus (See Steven, column 7, lines 34-37)

Regarding claims 23 and 24, Stempeck as modified with Minoura, Stevens further teaches the use of a medium for storing a program to implement a control method as recited in claim 18 since Stempeck, Minoura and Stevens teach controllers to control the operation of the apparatus based on instruction from the controller.

Response to Arguments

6. Applicant's arguments filed have been fully considered but they are not persuasive.

Applicant argues that that the references do not teach that the sensed images are immediately displayed on the a display device. In response, it is noted that Stempeck and Steven teach that the sensed image are immediately displayed

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(Stempeck , column 3, line 20 to column 4, line 5, Abstract, Steven , column 1, lines 33-40).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Takei teaches apparatus having a control means for controlling the power of a monitor.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T NGUYEN whose telephone number is (703) 305-4775. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N

HUY T NGUYEN
PRIMARY EXAMINER